

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS**

In re:)
RYAN COLE and SARAH COLE,) CASE No. 24-40647
Debtors.) Chapter 7
)

**MOTION FOR EXTENSION OF TIME TO FILE ADVERSARY COMPLAINT TO
DETERMINE THE DISCHARGEABILITY OF DEBT**

COMES NOW Julie A. Su, Acting Secretary of Labor, United States Department of Labor (the “Acting Secretary”), and hereby moves this Court for an extension of time to file an adversary complaint to determine the dischargeability of certain debts pursuant to 11 U.S.C. §§ 523(c) and Fed. R. Bankr. P. 4007(c). In support of this Application, the Acting Secretary states as follows:

1. The Acting Secretary is charged with responsibility for enforcing the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001 *et seq.* In her capacity, the Acting Secretary has the authority pursuant to §§ 502(a)(2) and (5) of ERISA, 29 U.S.C. §§ 1132(a)(2) and (5), to enforce the provisions of Title I of ERISA by, among other means, the filing and prosecution of claims in federal court for injunctive relief and restitution to employee benefit plans. The Acting Secretary is responsible for protecting the interests of the participants and beneficiaries of employee benefit plans and the plan assets held by those plans.

2. The Acting Secretary, through the Employee Benefits Security Administration (“EBSA”), is currently investigating the Platinum Team Management, LLC Group Health Plan (the “Plan”), of which Ryan Cole was a functional fiduciary. The Plan is an employee benefit plan within the meaning of ERISA § 3(3), 29 U.S.C. § 1002(3), which

is subject to the provisions of Title I of ERISA pursuant to ERISA §4(a), 29 U.S.C. § 1003(a).

3. On March 25, 2024, the Debtors filed a petition with this Court seeking relief under Chapter 7 of the United States Bankruptcy Code (the “Code”).

4. The first date set for the meeting of the creditors under § 341(a) of the Code was May 22, 2024, and the deadline for objecting to discharge is June 18, 2024.

5. EBSA’s investigation revealed facts indicating that Ryan Cole may have violated certain provisions of ERISA in his capacity as a fiduciary of the Plan. Notably, EBSA’s investigation found that Ryan Cole may have breached his fiduciary duty with respect to the remittance of employee contributions for the payment of Plan premiums by failing to forward employee contributions for the months of July 2022 and August 2022.

6. Given the complexity of the facts and number of entities within the scope of EBSA’s investigation, which stems from the closure of a hospital system serving rural areas of central Missouri, EBSA’s investigation is still ongoing, and the Acting Secretary requires additional time to make a determination of whether a violation was committed by the Debtor which would warrant the filing of an adversary complaint in this matter.

7. Therefore, in accordance with Fed. R. Bankr. P. 4007(c) and Local Rule of Bankruptcy Procedure 4007-1, the Acting Secretary requests an additional thirty (30) days, until and including July 18, 2024, to file an adversary complaint to determine the dischargeability of the unremitted employee contributions owed to the Plan.

8. The Acting Secretary has conferred with counsel for the Chapter 7 Trustee, who has stated that he has no objection to the Motion. The Acting Secretary also reached out to counsel for the Debtors, but has not yet received an answer regarding whether

Debtors' counsel objects to this Motion.

WHEREFORE, the Acting Secretary prays that this Court enter an order granting the Motion for Extension of Time and permitting the Acting Secretary an additional thirty (30) days, until and including July 18, 2024, to file an adversary complaint in this matter.

Respectfully submitted,

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/s/ Allyson D. Gault
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*Attorneys for Julie A. Su, Acting Secretary of
Labor, United States Department of Labor*

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of June, 2024, a true and correct copy of this Motion was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Allyson D. Gault
Allyson Gault